

December 11, 1950

RE: PROVISIONS OF LAW WHICH WOULD BECOME OPERATIVE UPON PROCLAMATION
OF A NATIONAL EMERGENCY BY THE PRESIDENT

- I. Provisions As To Which The Joint Resolution of July 25,
1947 (61 Stat. 449, 451-454) Terminated The State of War
And The National Emergencies Then Existing.

Act of February 26, 1925 (43 Stat. 984)

Provides that the Secretary of War, upon his sale thereof,
shall attach such conditions as shall ensure use by the
United States of the railroad of the Hoboken Manu-
facturers' Railroad Co. (owned by the Port of New York
Authority) "in the event of war or other national
emergency."

Act of April 12, 1926 (44 Stat. Part 2, page 241)

Government authorized to assume absolute control, for
military purposes, of the municipal aviation field
on land leased to Tucson, Arizona "in case of emergency,
or in event it should be deemed advisable."

Act of May 29, 1926 (44 Stat. Part 2, page 677)

Exchange of land is authorized on condition that other
party agrees that Department of War may assume control
of air field near Yuma, Ariz., "in case of emergency,
or in the event that it should be deemed advisable by
the Secretary of War."

Subsection 2, page 1292, of Act of May 15, 1936 (49 Stat. 1292)

Secretary of War may transfer specified land to City of
Little Rock, Arkansas, upon condition that the Secretary
of War may require the city to turn over complete
control of the Little Rock Municipal Airport to the U.S.
"in time of national emergency."

Act of May 27, 1936 (49 Stat. 1387), as amended by P.L. 97, 81st Cong.

Deed by U.S. to Charleston, South Carolina, of certain
land shall provide for authority of President to take
it for use of War Department "in the event of a national
emergency."

- 2 -

Sec. 3 of Act of June 21, 1938 (52 Stat. 834)

Deed shall provide the right of the President to take over Hoboken Pier Terminal property "in event of a national emergency" for use by the Department of the Army.

Act of November 21, 1941 (55 Stat. 781)

31 U.S.C. 80a Time for examination of accounts of Army disbursing officers is extended to 90 days "in time of war or during any emergency declared by Congress or determined by the President and for a period of eighteen months after such war or emergency."

Sec. 18 of Act of February 2, 1901 (31 Stat. 752)

10 U.S.C. 107 Authority for the Surgeon General to appoint as many contract surgeons as necessary "in emergencies".

Act of December 26, 1941 (55 Stat. 862) as amended

31 U.S.C. 80b Time for administrative examination of monthly accounts of disbursing officers of Navy, Marine Corps, and Coast Guard is extended "in time of war or national emergency."

Act of August 29, 1916 (39 Stat. 580)

34 U.S.C. 191 Navy enlisted men on furlough without pay for the unexpired portion of their enlistment are subject to recall to complete the enlistment period "in time of war or national emergency."

Act of August 18, 1941 (55 Stat. 629)

34 U.S.C. 181 Authorizes enlistments in the Navy or Marine Corps to be extended "in time of war, or national emergency declared by the President."

Act of March 22, 1943 (57 Stat. 41)

34 U.S.C. 1201 Jurisdiction of naval courts extended to certain persons outside of the United States "in time of war or national emergency."

- 3 -

Act of August 29, 1916 (39 Stat. 591)

34 U.S.C. 433 Authority of Secretary of the Navy to call retired enlisted men into active service "in time of war or when a national emergency exists."

14 U.S.C. 240, 310 (as enacted by P.L. 207, 81st Cong.)

"In time of war or national emergency" commissioned and warrant officers of the Coast Guard on the retired list may be called to active duty.

Act of April 8, 1946 (60 Stat. 86)

34 U.S.C. 428 Concerning the rate of pay in certain circumstances of retired officers of the permanent grade or rank of rear admiral recalled to active duty "in time of war or other national emergency."

Art. 65 of the AGN (40 Stat. 393), as amended by 40 Stat. 708, 43 Stat. 1088 and 52 Stat. 1175

34 U.S.C. 1200, art. 65 Service on naval courts martial by Reserves, etc., "when actively serving under the Navy Department in time of war or during the existence of an emergency."

Note: Repealed by sec. 14(n) of P.L. 506, 81st Cong., effective May 31, 1951.

Sec. 10 of the Act of June 14, 1940 (54 Stat. 395)

Provisions of act of April 25, 1939 (53 Stat. 591), authorizing contracts upon a cost-plus basis in certain cases, are to be applicable to naval public works and utilities projects in the Fourteenth Naval District "during the period of any national emergency declared by the President to exist."

Sec. 18 of Act of August 2, 1946 (60 Stat. 853)

34 U.S.C. 474 Authorizes transportation and subsistence on naval vessels at Government expense of such persons as the Secretary of Navy may authorize "during the existence of war or national emergency as declared by the President."

Sec. 10 of the Act of May 14, 1930 (46 Stat. 332)

Authority to the Secretary of the Navy to revoke the lease of the floating drydock and water-front accessories at the New Orleans naval station "in case of national emergency declared by the President."

Act of May 29, 1930 (46 Stat. 479)

Authority of the Secretary of the Navy to revoke the lease of the United States naval destroyer and submarine base at Squantum, Mass., "in case of a national emergency declared by the President."

Joint Resolution of April 11, 1898 (30 Stat. 737)

50 U.S.C. 178 Permits the erection of temporary forts or fortifications "in case of emergency when, in the opinion of the President, the immediate erection of any temporary fort or fortification is deemed important and urgent" without complying with formalities and procedures ordinarily followed.

Act of March 3, 1925 (43 Stat. 1109)

16 U.S.C. 440 Authority to close Fort McHenry Military Reservation in Maryland "in case of a national emergency" and use it for military purposes.

Sec. 1 of Act of July 2, 1940 (54 Stat. 724)

48 U.S.C. 1381 Suspension "in event of declared national emergency" of provision that natural features of Barro Colorado Island in Gatun Lake, C.Z., be left in their natural state for scientific observation and investigation.

Sec. 4(b) of Act of July 2, 1940 (54 Stat. 714), as amended

5 U.S.C. 189a Regular working hours of laborers and mechanics employed by the War Department to be 8 hours per day or 40 hours per week during a "national emergency declared by the President" with authority in Secretary of War to prescribe regulations governing hours in excess of 40 to be compensated at not less than time and one-half.

- 5 -

Sec. 606 of the Communications Act of 1934 (48 Stat. 1104)

47 U.S.C. 606 Subsection (c) authorizes the President to suspend or amend rules and regulations of the FCC applicable to any or all stations in the United States, to cause the closing of any station and the removal of its equipment, or to authorize its use and control by the Government upon just compensation to the owners "upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency or in order to preserve the neutrality of the United States."

Sec. 4 of Act of July 15, 1918 (40 Stat. 901), as amended

46 U.S.C. 835 Makes unlawful without prior U. S. Maritime Commission approval various actions with respect to domestic shipping facilities including its transfer to foreign ownership or registry, "when the United States is at war or during any national emergency, the existence of which is declared by proclamation of the President."

Merchant Marine Act of 1936

46 U.S.C. 1132(h) (a) Sec. 302, 49 Stat. 1992
During a "national emergency as proclaimed by the President," he may suspend the provisions of this section (requirements as to United States citizenship of officers and crew and requirement that alien crew members be declarants).

46 U.S.C. 1202(d) (b) Sec. 712 (49 Stat. 2010)
Authorizes the Maritime Comm. to terminate charters of public vessels "whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President."

46 U.S.C. 1242(a) (c) Sec. 902 (49 Stat. 2015)
Authorizes Maritime Comm. to requisition or purchase vessels "whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President."

- 6 -

Sec. 1 of Title II of Act of June 15, 1917 (40 Stat. 220)

50 U.S.C. 191 "Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, ... or disturbance or threatened disturbance of the international relations of the United States" the Secretary of the Treasury may make rules and regulations, governing the anchorage and movement of vessels, foreign and domestic, in United States waters, and may inspect and in certain contingencies take possession and control of such vessels. Within the Canal Zone, the Governor of the Panama Canal is delegated similar powers.

Act of August 4, 1949 (63 Stat. 551)

14 U.S.C. 753 (a) The Coast Guard Reserve may be called or continued on active duty "in time of war or national emergency declared by the President."

Act of March 4, 1917 (39 Stat. 1192)

40 U.S.C. 326 "In case of national emergency" the President may suspend provisions of the 8-hour law as to contracts with the United States subject to provision for the payment of overtime.

Sec. 6 of Act of August 30, 1935 (49 Stat. 1011)

40 U.S.C. 276a-5 Authorizes the President to suspend the provisions of the act which relate to the rate of wages for laborers and mechanics employed by contractor and subcontractor on public buildings "in event of a national emergency."

- 7 -

II. Provisions Enacted Later Than Those Dealt With In Part I, Above

Act of June 28, 1947 (61 Stat. 191)

10 U.S.C. 628 The Secretary of the Army may refuse to accept resignations of enlisted men "in time of war or national emergency declared by the President or Congress."

§ 13(g)(2)(E) of the Surplus Property Act of 1944, as amended by § 2 of the Act of July 30, 1947 (61 Stat. 679)

50 U.S.C. App. Disposition of all surplus airports, airport facilities 1622(g)(2)(E), and equipment, disposed of under the Surplus Property Act, 50 U.S.C. App. must in general be made subject to the condition that 1622(g)(3) the United States shall have the right to use, control and possess them "during any national emergency declared by the President or by the Congress."

§ 1 of the Act of August 5, 1947 (61 Stat. 774)

5 U.S.C. 626s-3 The Secretary of the Air Force, the Secretary of the 10 U.S.C. 1270 Army and the Secretary of the Navy may each lease 34 U.S.C. 522a non-surplus property under their control respectively, but, irrespective of the terms of the lease, it shall be revokable by the Secretary of the department concerned "during a national emergency declared by the President."

§§ 103(a) and (b), 114(b) and (c), 203(a), of the Officer Personnel Act of 1947 (61 Stat. 799, 811, 816)

34 U.S.C. Limitations on the number of Admirals of the line
4(a) and (b) of the Navy, Generals in the Marine Corps and
34 U.S.C. Admirals of the Staff Corps of the Navy do not apply
626(b) and "in time of war or national emergency declared
(c) after the effective date of this Act."
34 U.S.C. 5

§ 304(n) of the Officer Personnel Act of 1947 (61 Stat. 840)

34 U.S.C. The termination by this provision of the authority to make
211a(n) temporary naval appointments under the Act of July 24, 1941 (55 Stat. 603) shall not be held to impair the authority to make temporary appointments under that Act "during any future war or national emergency."

Secs. 413(a) and (b), 415(a) and (b) of the same Act (61 Stat. 876)

34 U.S.C. 211d Statutory limitations on the number of Naval and Marine
(a) and (b) officers, respectively, are removed "in time of war or
34 U.S.C. 623b national emergency declared after the effective date of
(a) and (b) this Act," and such designations "in time of war or
national emergency" may be made down to the rank of
Captain or Colonel, respectively.

Sec. 424 of the same Act (61 Stat. 879)

34 U.S.C. 21 The statutory limitation on the number of temporary com-
missions which the President may issue in the Navy Medical
Corps do not apply "in time of war or (sic) declared
national emergency."

Sec. 430 of the same Act (61 Stat. 881)

34 U.S.C. 211e The statutory limitation on the number of retired
Admirals who may be serving on active duty does not apply
"in time of war or national emergency declared after the
date of approval of this Act."

Secs. 503(a), 504(b) and 515(b) of the same Act (61 Stat. 885, 887, 907)

10 U.S.C. 506a(a) The statutory limitation on the number of Army officers
10 U.S.C. 506b(b) above the grade of Major General applies "until a national
10 U.S.C. 506d(b) emergency is * * * declared /after July 1, 1948/."

Sec. 514(f) of the same Act (61 Stat. 906)

10 U.S.C. 941a(f) The operation of any statutory provisions prescribing
mandatory retirement or separation of Regular Army
officers may be suspended by the President "in time of
emergency declared by the President or by the Congress,
and in time of war."

Sec. 515(e) of the same Act (61 Stat. 907)

10 U.S.C. 506d(e) The President is authorized to issue temporary commissions
in the Army of the United States, to continue during the
emergency or war in which the appointment was made and
for six months thereafter, "in time of emergency declared
by the President, or by the Congress, and in time of war."

Joint Resolution of August 8, 1947 (61 Stat. 921)

12 U.S.C. 248 The Board of Governors of the Federal Reserve System shall
note not exercise consumer credit controls pursuant to Executive
Order 8843 "except during the time of war beginning after
the date of enactment of this Joint Resolution or any
national emergency declared by the President after the

- 9 -

Sec. 2(c)(1) and (e) of the Armed Services Procurement Act of 1947 (62 Stat. 21)

Sec. 3(a) of the Central Intelligence Agency Act of 1949, P.L. 110, 81st Cong.

41 U.S.C. 151 Purchases and contracts for supplies and services made by (c)(1) and (e) the Department of the Army, the Department of the Navy, the Department of the Air Force, the United States Coast Guard, the National Advisory Committee for Aeronautics, and the Central Intelligence Agency, need not be made by advertising if "determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress."

Sec. 6 of the Act of February 28, 1948, amending section 210 (k) of the Public Health Service Act, as amended (62 Stat. 44)

42 U.S.C. 211(k) Any commissioned officer of a professional category of the regular Corps of the Public Health Service may be recommended to the President for promotion to any higher grade in that category, whether or not a vacancy exists in that grade, "in time of war, or of national emergency proclaimed by the President."

Sec. 10 (b) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (62 Stat. 299)

33 U.S.C. 853i(b) The President may suspend the operation of any statutory provisions relating to promotion of officers in the Coast and Geodetic Survey "in time of emergency declared by the President or by the Congress, and in time of war."

The Act of June 19, 1948, amending para. 5 of section 3A of the Civil Service Retirement Act of May 29, 1930 (62 Stat. 504)

5 U.S.C. 693-1(5) Any member of Congress who, "during any war or time of national emergency as proclaimed by the President or declared by the Congress," leaves his office to enter the armed forces, shall for the purpose of this provision, be deemed to continue as a member of Congress during such military service.

Sec. 6 of the Act of June 28, 1948 (62 Stat. 1065)

42 U.S.C. 1575 The right, title, and interest of any lands, together with
note improvements thereon, which are conveyed under section 5 of this Act (authorizing the Defense Homes Corporation

- 10 -

to convey certain real estate in the District of Columbia to Howard University), shall revert to the United States upon a written finding made by the President prior to July 1, 1963, that the property is needed by the United States "in connection with a national defense emergency."

Sec. 1e of the Act of July 2, 1948 (62 Stat. 1230)

(Not
codified)

The Secretary of the Army is authorized to convey a certain part of Santa Rosa Island, Florida, to Okaloosa County, Florida, for recreational purposes, subject to a condition that, "in the event of a national emergency", the Secretary shall have the right to take over that property in his discretion for such use and for such length of time as the emergency shall require.

Sec. 507(b) of the Officer Personnel Act of 1947 (61 Stat. 893)

10 U.S.C. 559a(b) The President may suspend the operation of any provision of law pertaining to promotion, "in time of emergency declared by the President or by the Congress, and in time of war."

Sec. 1 of the Act of May 28, 1948 (62 Stat. 276)

5 U.S.C. 189c
5 U.S.C. 415d
5 U.S.C. 626n

Personnel whose transportation the Secretary of one of the military departments may assure in accordance with the authority of this Act include, "during any period of war or national emergency declared by the Congress or the President", personnel working with private plants engaged in the manufacture of material for those departments.

- 11 -

§302(c) (1) and (e) of the Federal Property and Administrative Services Act of 1949, P.L. 152, 81st Cong.

41 U.S.C. 252(c) Purchases and contracts for supplies and services may be negotiated by the heads of executive departments and agencies without the advertising required by § 303 of this Act if "determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress."

14 U.S.C. 240, 310, 359 (P.L. 207, 81st Cong.)

The Secretary of the department in which the Coast Guard is operating may order any retired Coast Guard commissioned officer or warrant officer to active duty "in time of war or national emergency." Enlisted men may be so ordered by the Commandant of the Coast Guard.

14 U.S.C. 367(a)(4) (P.L. 207, 81st Cong.)

Under regulations prescribed by the Secretary, an enlisted man may be detained in the Coast Guard beyond the term of his enlistment "during a period of war or national emergency as proclaimed by the President, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency."

14 U.S.C. 652 (P.L. 207, 81st Cong.)

Any law removing "for the duration of a war or national emergency proclaimed by the President" any restriction contained in any then-existing law as applied to the Navy, shall, in the same manner and to the same extent, remove such restrictions as applied to the Coast Guard.

14 U.S.C. 752, 753(a) (P.L. 207, 81st Cong.)

Any member of the Coast Guard Reserve may be ordered to active duty, "in time of war or national emergency declared by the President to exist," for the duration of the war or until the termination of the emergency as declared by the President, and may be continued on such active duty for such duration and six months thereafter, notwithstanding that the term of appointment or enlistment may have expired.

- 12 -

14 U.S.C. 759 (P.L. 207, 81st Cong.)

The sum of \$150 for the purchase of uniforms, in addition to the normal uniform allowance, may be paid to Coast Guard Reserve officers upon first reporting for active duty, "in times of war or national emergency." Enlisted personnel of the Coast Guard Reserve may be issued articles additional to the normal Reserve issue, upon first reporting for active duty "in time of war or national emergency."

Sec. 8 of the same Act (P.L. 207, 81st Cong.), amending sec. 7 of the Act of July 1, 1918, 40 Stat. 717

Any commissioned or warrant officer on the retired list of the Navy or Marine Corps may be ordered to active duty "during the existence of war or of a national emergency declared by the President to exist," and he shall be entitled to promotion on the retired list as if such services had been rendered continuously on the active list.

Sec. 402(a) of the Career Compensation Act of 1949, P.L. 351, 81st Cong.

37 U.S.C. 272(a) For the purposes of disability retirement in the uniformed services, any disability incurred in line of duty during the serviceman's active services "in time of war or national emergency" shall be considered to be the proximate result of the performance of active duty.

Sec. 3(b) of the Joint Resolution of March 7, 1947, 61 Stat. 10, as amended by the Joint Resolution of July 1, 1948 (62 Stat. 1212)

46 U.S.C. 866
note

The Maritime Commission (now succeeded by the Maritime Board and the Maritime Administration, Reorg. Plan No. 21 of 1950) may terminate any arrangement into which it has entered, pursuant to this Resolution, regarding ocean transportation service to Alaska, "whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President."

- 13 -

Art. 71(b) of the Uniform Code of Military Justice, Act of May 5, 1950
(not in effect until May 31, 1951 [sec. 5 of the Act])

50 U.S.C. 658 The Secretary of the Military Department concerned may commute a court-martial sentence of dismissal of an officer, to reduction to any enlisted grade, "in time of war or national emergency."

Sec. 3 of the Act of June 30, 1950, P.L. 593, 81st Cong.

The conveyance of a specified part of Camp Joseph T. Robinson, Arkansas, to the State of Arkansas, shall contain the provision that the United States shall have the right of re-entry upon and use of that property, "whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist."

Sec. 1206 of the Merchant Marine Act, 1936, as amended by the Act of September 7, 1950, P.L. 763, 81st Cong.

46 U.S.C. 1286 The Secretary of Commerce is authorized to provide war-risk insurance to appropriate persons "during any time the United States is at war or during any period of emergency declared to exist by the President."

Sec. 4(c) and (e) of the National Defense Facilities Act of 1950, P.L. 783, 81st Cong.

50 U.S.C. 783 The Secretary of Defense shall not permit property, acquired under this Act and permitted by him in accordance with the Act to be used by persons or organizations, to be used in any way which will interfere with their use for the administration and training of Reserve components of the armed forces, "or in time of war or national emergency by other units of the Armed Forces of the United States or any other use by the Federal Government." The same requirement shall apply to facilities acquired or improved by any State with funds contributed by the Secretary of Defense in accordance with sec. 3(b) or (c) of the Act.